

RESOLUTION NO. R-08-09
RESOLUTION OF THE CITY OF NEW ALBANY
APPROVING AN AMENDATORY DECLARATORY RESOLUTION
AND ECONOMIC DEVELOPMENT PLAN OF THE
REDEVELOPMENT COMMISSION OF THE
CITY OF NEW ALBANY, INDIANA, AND APPROVING
AN ORDER OF THE NEW ALBANY CITY PLAN COMMISSION

WHEREAS, the City of New Albany ("City") Redevelopment Commission ("Commission") has, on the 17th day of February, 1993, adopted a declaratory resolution, as amended on February 26, 2001 and as further amended on February 14, 2006 ("Declaratory Resolution") initially approving the economic development area known as the "State Street/Green Valley Road Vicinity Economic Development Area" ("Original Area") as an economic development area and subject to economic development activities pursuant to IC 36-7-14 and IC 36-7-25 and all acts supplemental and amendatory thereto ("Act") and designated an allocation area within the Original Area ("Original Allocation Area"); and

WHEREAS, the Declaratory Resolution approved the Economic Development Plan ("Original Plan") for the Original Area which Original Plan contained specific recommendations for economic development in the Original Area;

WHEREAS, the Declaratory Resolution established an allocation area in accordance with IC 36-7-14-39 ("Original Allocation Area") for the purpose of capturing property taxes generated from the incremental assessed value of real property located in the Original Allocation Area;

WHEREAS, the Commission submitted the Declaratory Resolution and supporting data to the New Albany City Plan Commission ("Plan Commission") and the Plan Commission issued its written orders approving the Declaratory Resolution and the Original Plan;

WHEREAS, the Common Council of the City ("Common Council") adopted resolutions approving the orders of the Plan Commission;

WHEREAS, the Commission on September 14, 1993 and June 13, 2001, conducted public hearings at which the Commission heard all persons interested in the proceedings and considered all written remonstrances and objections that were filed, and after the conclusion of the public hearings adopted resolutions ratifying and confirming the Declaratory Resolution (collectively, "Confirmatory Resolution");

WHEREAS, the Common Council adopted resolutions approving the establishment and expansion of the Original Area;

WHEREAS, on February 12, 2008, the Commission adopted its amending Declaratory Resolution ("Amendatory Declaratory Resolution"), for the purpose of adding several additional parcels to the Original Area and Original Allocation Area ("2008 Area"), which constitutes an enlargement of the boundaries of the Original Area and the Original Allocation Area by more than 20% to include the 2008 Area ("Consolidated Area") and to amend the Amended Plan (collectively, as amended, "Plan"); and

WHEREAS, IC 36-7-14-17.5 provides that, if an amendment to a declaratory resolution will enlarge the boundaries of the Original Area by more than 20%, the Commission must use the procedures provided for the establishment of the Original Area; and

WHEREAS, the New Albany City Plan Commission ("Plan Commission"), on the 19th day of February, 2008, approved the Plan and Amendatory Declaratory Resolution; and

WHEREAS the Act requires approval of the Amendatory Declaratory Resolution, the Plan and the action of the Plan Commission by the Common Council of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY, AS FOLLOWS:

1. That the Plan for the Consolidated Area is in all respects approved, ratified and confirmed by the Common Council.

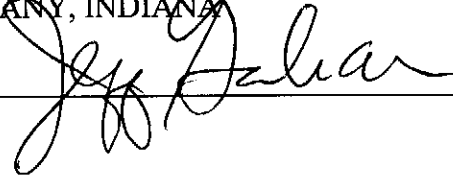
2. That the action of the Plan Commission on February 19, 2008, approving the Plan and the Amendatory Declaratory Resolution is in all respects approved, ratified and confirmed by the Common Council.

3. That the City Clerk is hereby directed to file a copy of the Amendatory Declaratory Resolution, the Plan and the approving Order of the Plan Commission with the permanent minutes of this meeting.

4. This resolution shall be effective from and after passage and approved by the Common Council of the City of New Albany.

PASSED AND ADOPTED by the Common Council of the City of New Albany, Indiana,
this ____ day of _____, 2008, by a vote of _____ ayes and _____ nays.

COMMON COUNCIL OF THE CITY OF NEW
ALBANY, INDIANA



ATTEST:



Marcey J. Wisman, City Clerk

AMENDATORY RESOLUTION NO. RC-02-08

**DECLARATORY RESOLUTION OF THE
NEW ALBANY REDEVELOPMENT COMMISSION
AMENDING DECLARATORY RESOLUTION NO. _____, AS AMENDED
BY RESOLUTION NO. RC-03-01, AS FURTHER AMENDED
BY RESOLUTION NO. RC-02-06**

WHEREAS, the New Albany ("City") Redevelopment Commission ("Commission") did on February 17, 1993 adopt a declaratory resolution, as amended on February 26, 2001 and as further amended on February 14, 2006 ("Declaratory Resolution") establishing the State Street/Green Valley Road/West Street Vicinity Economic Development Area ("Original Area"), and the Declaratory Resolution was confirmed by a confirmatory resolution adopted on September 14, 1993, as amended on June 13, 2001;

WHEREAS, the Declaratory Resolution approved the Economic Development Plan ("Plan") for the Original Area, which Plan contained specific recommendations for economic development in the Original Area;

WHEREAS, the Declaratory Resolution established an allocation area in accordance with IC 36-7-14-39 ("Original Allocation Area") for the purpose of capturing property taxes generated from the incremental assessed value of real property located in the Original Allocation Area;

WHEREAS, IC 36-7-14-17.5 authorizes the Commission to amend the Declaratory Resolution after conducting a public hearing, if it finds that:

- (1) The amendment is reasonable and appropriate when considered in relation to the Declaratory Resolution and the Plan and the purposes of IC 36-7-14; and
- (2) The Declaratory Resolution and the Plan, with the proposed amendment, conform to the comprehensive plan for the City;

WHEREAS, IC 36-7-14-17.5 provides that, if an amendment to a declaratory resolution will enlarge the boundaries of the Original Area by more than 20%, the Commission must use the procedures provided for the original establishment of the Original Area;

WHEREAS, the Commission now desires to add several additional parcels to the Original Area ("2008 Area") as described in Exhibit A-1, which will constitute an enlargement of the boundaries of the Original Area of more than 20%;

WHEREAS, the Commission has prepared a Plan ("2008 Plan") for the 2008 Area, which 2008 Plan is attached to and incorporated by reference in this resolution;

WHEREAS, the Commission has caused to be prepared:

- (1) Maps and plats showing:
 - (A) the boundaries of the 2008 Area, the location of various parcels of property, streets, alleys, and other features affecting the acquisition, clearance, replatting, replanning, rezoning or economic development of the area, indicating any parcels of property to be excluded from the acquisition; and
 - (B) the parts of the areas that are to be devoted to public ways, levees, sewerage, parks, playgrounds, and other public purposes under the Plan;
- (2) Lists of the owners of the various parcels of property proposed to be acquired, if any;
and
- (3) An estimate of the cost of redevelopment and economic development;

WHEREAS, the Commission has caused to be prepared a factual report ("Report") in support of the findings contained in this resolution, which Report is attached to and incorporated by reference in this resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE NEW ALBANY REDEVELOPMENT COMMISSION THAT:

(1) The original Declaratory Resolution and subsequent amendments thereto and the original Plan and subsequent amendments thereto are hereby further amended to: (i) enlarge the boundaries of the Original Area and Original Allocation Area to include the 2008 Area as set forth in Exhibit A-1; (ii) the description of the Consolidated Area is set forth in Exhibit A-2 and the map of the Consolidated Area is set forth in Exhibit A-3; (iii) amend the Plan as set forth in Exhibit A-4 ("Factual Report and 2008 Economic Development Plan"); and (iv) to authorize the Commission to contract for certain local public improvements in, serving or benefiting the Consolidated Area. The Consolidated Area shall be treated as one economic development area under IC 36-7-14 and IC 36-7-25 ("Act").

(2) The Commission now finds and determines that the establishment of the Consolidated Area and the amendment to the Plan will help accomplish the 2008 Plan for economic development and redevelopment in the Consolidated Area, as established by the Declaratory Resolution and enlarged and amended by this resolution.

(3) The Commission now finds that the amendment to the Declaratory Resolution is reasonable and appropriate when considered in relation to the Declaratory Resolution and the Plan and the purposes of IC 36-7-14. The Commission further finds that the Declaratory Resolution and the Plan, with the proposed amendments, conform to the comprehensive plan of the City.

(4) The Commission does not now propose to acquire interests in real property within the boundaries of the Consolidated Area. If the Commission determines that it is necessary to acquire

real property in the Consolidated Area, it will amend the Plan and this resolution prior to any acquisition.

(5) The Commission estimates that the cost of implementing the 2008 Plan in the Consolidated Area will not exceed \$4,500,000.

(6) The Commission finds that no residents of the Consolidated Area will be displaced by any project resulting from the 2008 Plan; and, therefore, the Commission finds that it does not need to give consideration to transitional and permanent provisions for adequate housing for the residents.

(7) All of the rights, powers, privileges, and immunities that may be exercised by the Commission in a redevelopment area or urban renewal area may be exercised by the Commission in the Consolidated Area, subject to the limitations in IC 36-7-14-43.

(8) The presiding officer of the Commission is hereby authorized and directed to submit this resolution, together with the Declaratory Resolution, the Plan, the 2008 Plan and the Report to the Plan Commission for its approval.

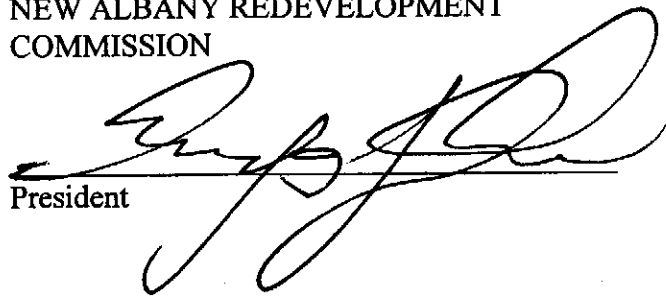
(9) The Commission also directs the presiding officer, after receipt of the written order of approval of the Plan Commission and the approval of the Plan Commission's order by the Common Council, to publish notice of the adoption and substance of this resolution in accordance with IC 5-3-1-4 and to file notice with the Plan Commission, the Board of Zoning Appeals, the Board of Public Works, the Park Board, the Building Commissioner and any other departments or agencies of the City concerned with unit planning, zoning variances, land use or the issuance of building permits. The notice must state that maps and plats have been prepared and can be inspected at the office of the City's department of redevelopment and must establish a date when the Commission will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed project and will determine the public utility and benefit of the proposed project. Copies of the notice must also be filed with the officer authorized to fix budgets, tax rates and tax levies under IC 6-1.1-17-5 for each taxing unit that is either wholly or partly located within the Consolidated Area.

(10) The Commission directs the presiding officer to submit this resolution to the Common Council for its approval of the establishment of the 2008 Area and the 2008 Plan.

(11) This resolution is effective upon passage.

Adopted February 12, 2008.

NEW ALBANY REDEVELOPMENT
COMMISSION



President

Attest:



Secretary

EXHIBIT A-1

Description of 2008 Area

All parcels of record fronting on both sides of State State Street from I-265 to the north side of West Elm Street and excluding all parcels contained in Resolutions RC-03-01 and RC-02-06; all parcels of record fronting on both sides of Green Valley Road from Daisy Lane to State Street and excluding all parcels contained in the Resolutions; the Summit Springs property further described in PUDD Ordinance P-12-06.

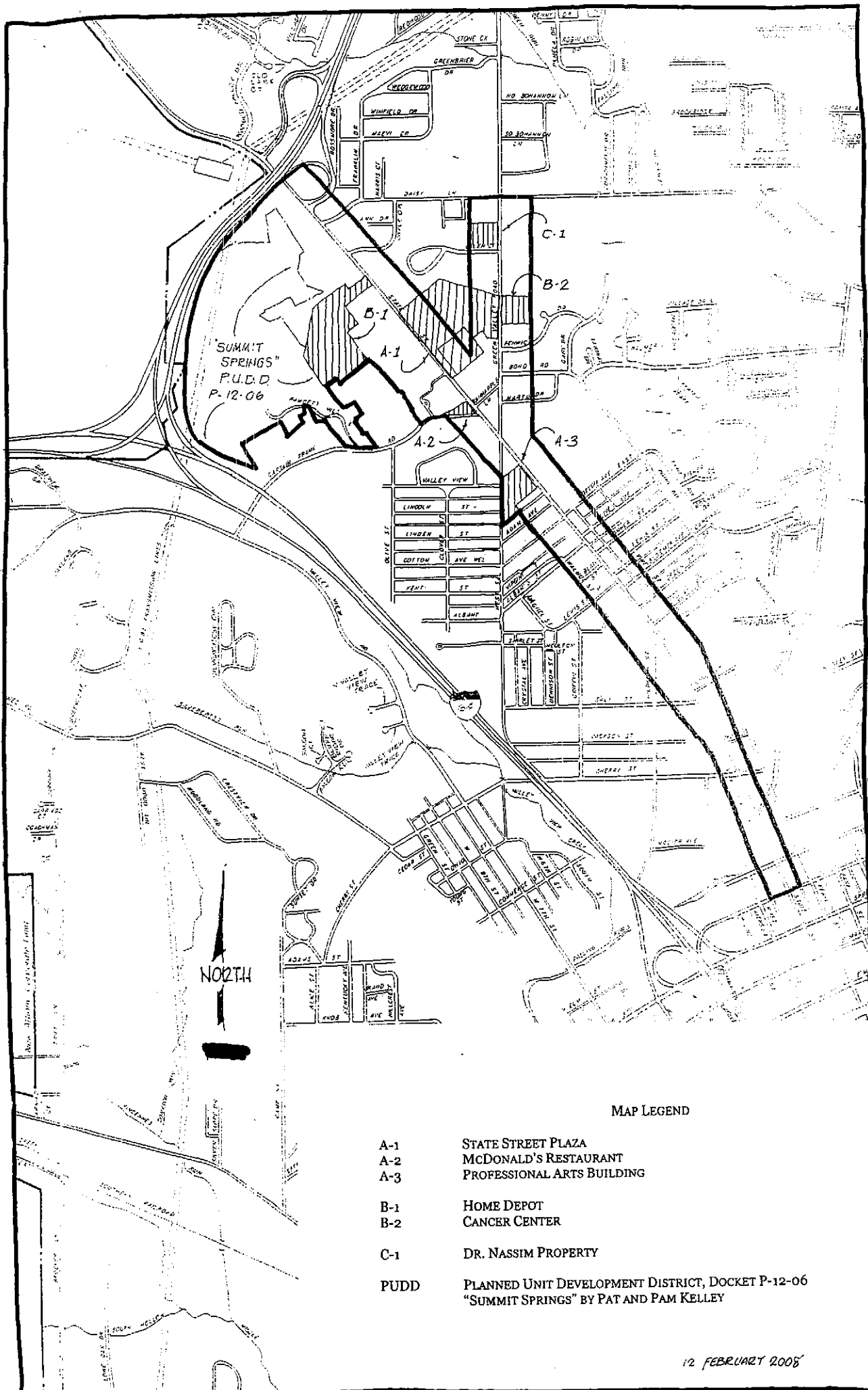
EXHIBIT A-2

Description of the Consolidated Area and Consolidated Allocation Area

The Consolidated Area and Consolidated Allocation Area shall include all parcels of record fronting on both sides of State Street from I-265 to the north side of West Elm Street and including all parcels identified in the Original Declaratory Resolution and RC-03-01; all parcels of record fronting on both sides of Green Valley Road from Daisy lane to State Street and including all parcels identified in Resolutions RC-03-01 and RC-02-06; and the Summit Springs property further described in PUDD Ordinance, P-12-06.

EXHIBIT A-3

Map of the Consolidated Area and Consolidated Allocation Area



MAP LEGEND

- | | |
|----------|---|
| A-1 | STATE STREET PLAZA |
| A-2 | MCDONALD'S RESTAURANT |
| A-3 | PROFESSIONAL ARTS BUILDING |
| B-1 | HOME DEPOT |
| B-2 | CANCER CENTER |
| C-1 | DR. NASSIM PROPERTY |
| P.U.D.D. | PLANNED UNIT DEVELOPMENT DISTRICT, DOCKET P-12-06
"SUMMIT SPRINGS" BY PAT AND PAM KELLEY |

12 FEBRUARY 2008

EXHIBIT A-4

Factual Report and 2008 Economic Development Plan

FACTUAL REPORT IN SUPPORT
OF FINDINGS CONTAINED IN
AMENDATORY RESOLUTION NO. RC-02-08
OF THE NEW ALBANY REDEVELOPMENT COMMISSION

This report is intended to supplement the original factual report supporting the Declaratory Resolution adopted on February 17, 1993, as amended, on February 26, 1991 and as further amended on February 14, 2006.

1. The Plan for the Consolidated Area ("Plan"), will promote significant opportunities for the gainful employment of citizens of the City of New Albany ("City") as follows:

- (a) Summit Springs PUDD
- (b) Other commercial infill projects along the cited State Street and Daisy Lane corridors.

2. The Plan will attract a major new business enterprise to the City as follows:

- (a) Summit Springs PUDD
- (b) Other commercial infill projects along the cited State Street and Green Valley Road corridors.

3. The planning, replanning, development, and redevelopment of the Consolidated Area will benefit the public health, safety, morals and welfare; increase the economic well-being of the City and the State of Indiana; serve to protect and increase property values in the City and the State of Indiana; and require the following additional public improvements and estimates as follows:

- (a) Summit Springs Infrastructure Improvements: \$2,000,000
- (b) State Street Corridor Signals from Main Street to I-265: \$750,000
- (c) State Street Lane Improvements at I-265 approaches: \$250,000
- (d) Graybrook Lane Extension from Bono Road to State Street: \$500,000
- (e) Schell Lane from Daisy Lane to Sam Community Park: \$1,000,000

4. The Plan for the Consolidated Area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to IC 36-7-14 (the redevelopment statute) because of the lack or deterioration of local public improvements.

5. The accomplishment of the Plan for the Consolidated Area will be of public utility and benefit as measured by:

- (a) The attraction of an estimated 50 permanent jobs;
- (b) An estimated increase in the property tax base of at least \$30,000,000 of assessed valuation for real property; and
- (c) Improved diversity of the economic base as follows:
 - (1) Expansion of the retail base; and
 - (2) Expansion of the health services base.

6. The Commission estimates that it will need to issue bonds or enter into a lease financing of an additional \$4,500,000 to implement the amended Plan.

NEW ALBANY REDEVELOPMENT COMMISSION
AMENDED AND RESTATED
ECONOMIC DEVELOPMENT PLAN
FOR THE CONSOLIDATED AREA

Purpose and Introduction.

This document is the Economic Development Plan ("Plan") for the Consolidated Area ("Area") for the City of New Albany ("City") supplementing and amending the plan for the Area approved in 1993, as amended, on February 26, 2001 and as further amended on February 14, 2006. It is intended for approval by the Common Council, the New Albany Area Plan Commission and the New Albany Redevelopment Commission ("Commission") in conformance with IC 36-7-14. This Plan amends the economic development plan approved by the Declaratory Resolution approved by the Commission on February 17, 1993 (and confirmed on September 14, 1993), amended on February 26, 2001 (and confirmed on June 13, 2001) and as further amended on February 14, 2006.

Project Objectives.

The purposes of the Plan are to benefit the public health, safety, morals, and welfare of the citizens of the City; increase the economic well-being of the City and the State of Indiana; and serve to protect and increase property values in the City and the State of Indiana. The Plan is designed to: (i) promote significant opportunities for the gainful employment of citizens of the City; (ii) attract a major new business enterprise to the City; (iii) retain or expand existing significant business enterprises to the City; (iv) provide for local public improvements in the Area; (v) remove improvements or conditions that lower the value of the land in the Area below that of nearby land; (vi) resolve problems associated with multiple ownership of land; (vii) attract and retain permanent jobs; (viii) increase the property tax base; and (ix) improve the diversity of the economic base of the City.

The factual report attached to this Plan contains the supporting data for the above declared purposes of the Plan.

Description of Project Area.

The Consolidated Area is located in the City and is described as that area contained in the description and map attached to the Amendatory Declaratory Resolution as Exhibit A-2 and A-3.

Project Description.

The economic development of the Consolidated Area will proceed in two phases, described as follows ("Projects"):

Phase I: Summit Springs PUDD Infrastructure Improvements: \$2,000,000

Phase II: State Street Corridor Signals from Main Street to I-265: \$750,000
 State Street Lane Improvements at I-265 approaches: \$250,000
 Graybrook Lane Extension from Bono Road to State Street: \$500,000
 Schell Lane from Daisy Lane to Sam Community Park: \$1,000,000

Future Development: Summit Springs PUDD.
 State Street and Green Valley Road corridors infill development.

All Projects are in, serving or benefiting the Area.

Acquisition of Property.

The Commission has no current plans to acquire interests in property in the Consolidated Area. If the Commission desires to acquire property in the future, the Commission shall amend this Plan and the Commission shall follow procedures in IC 36-7-14-19 in the acquisition of property any future acquisition of property. The Commission may not exercise the power of eminent domain in an economic development area.

Procedures with respect to the Projects.

All contracts for material or labor in the accomplishment of the Projects shall be let under IC 36-1.

In the planning and rezoning of real property acquired or to be used in the accomplishment of the Plan; the opening, closing, relocation and improvement of public ways; and the construction, relocation, and improvement of sewers and utility services; the Commission shall proceed in the same manner as private owners of the property. The Commission may negotiate with the proper officers and agencies of the City to secure the proper orders, approvals, and consents.

Any construction work required in connection with the Projects may be carried out by the appropriate municipal or county department or agency. The Commission may carry out the construction work if all plans, specifications, and drawings are approved by the appropriate department or agency and the statutory procedures for the letting of the contracts by the appropriate department or agency are followed by the Commission.

The Commission may pay any charges or assessments made on account of orders, approval, consents, and construction work with respect to the Projects or may agree to pay these assessments in installments as provided by statute in the case of private owners.

None of the real property acquired for the Projects may be set aside and dedicated for public ways, parking facilities, sewers, levees, parks, or other public purposes until the Commission has obtained the consents and approval of the department or agency under whose jurisdiction the property will be placed.

Disposal of Property.

The Commission may dispose of real property acquired, if any, by sale or lease to the public after causing to be prepared two (2) separate appraisals of the sale value or rental value to be made by independent appraisers. However, if the real property is less than five (5) acres in size and the fair market value of the real property or interest has been appraised by one (1) independent appraiser at less than Ten Thousand Dollars (\$10,000), the second appraisal may be made by a qualified employee of the Department of Redevelopment. The Commission will prepare an offering sheet and will maintain maps and plats showing the size and location of all parcels to be offered. Notice will be published of any offering in accordance with IC 5-3-1. The Commission will follow the procedures of IC 36-7-14-22 in making a sale or lease of real property acquired.

Financing of the Projects.

It is the intention of the Commission to issue bonds payable from incremental ad valorem property taxes allocated under IC 36-7-14-39 in order to raise money for [property acquisition and] completion of the Projects in the Consolidated Area. The amount of these bonds may not exceed the total, as estimated by the Commission of all expenses reasonably incurred in connection with the Projects, including:

- (1) The total cost of all land, rights-of-way, and other property to be [acquired and] developed;
- (2) All reasonable and necessary architectural, engineering, construction, equipment, legal, financing, accounting, advertising, bond discount and supervisory expenses related to the acquisition and development of the Projects or the issuance of bonds;
- (3) Interest on the bonds (not to exceed 5 years from the date of issuance) and a debt service reserve for the bonds to the extent the Commission determines that a reserve is reasonably required; and
- (4) Expenses that the Commission is required or permitted to pay under IC 8-23-17.

In the issuance of bonds the Commission will comply with IC 36-7-14-25.1.

As an alternative to the issuance of bonds or in conjunction with it, the Commission may enter into a lease of any property that could be financed with the proceeds of bonds under IC 36-7-14. The lease is subject to the provisions of IC 36-7-14-25.2 and IC 36-7-14-25.3.

Amendment of the Plan.

By following the procedures specified in IC 36-7-14-17.5, the Commission may amend the Plan for the Consolidated Area. However, any enlargement of the boundaries of the Consolidated Area must be approved by the Common Council.